

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

JULY 27, 2001

IN RE:

**DOCKET TO DETERMINE THE
COMPLIANCE OF BELL SOUTH
TELECOMMUNICATIONS, INC.'S
OPERATIONS SUPPORT SYSTEMS WITH
STATE AND FEDERAL REGULATIONS**

**DOCKET NO.
01-00362**

**ORDER APPROVING FIRST REPORT AND RECOMMENDATION
OF THE PRE-HEARING OFFICER**

This matter came before the Tennessee Regulatory Authority ("Authority") at a regularly scheduled Authority Conference held on May 15, 2001, for consideration of the First Report and Recommendation of Pre-Hearing Officer ("First Report and Recommendation") filed on May 3, 2001. A copy of the First Report and Recommendation is attached to this Order as Exhibit A.

Background

Under the Federal Telecommunications Act of 1996 and Tennessee law, Incumbent Local Exchange Companies ("ILECs") such as BellSouth Telecommunications, Inc. ("BellSouth"), must provide nondiscriminatory access to their Operations Support Systems ("OSS") to Competing Local Exchange Carriers ("CLECs").¹ "[T]he term OSS refers to the computer systems, databases, and personnel that incumbent carriers rely upon to

¹ See 47 U.S.C. § 251(c)(3); Tenn. Code Ann. § 65-4-124(a).

discharge many internal functions necessary to provide service to their customers.”² Nondiscriminatory access to an incumbent’s OSS allows CLECs to access the customer data necessary to sign up customers, place an order for services or facilities with the incumbent, track the progress of that order to completion, receive relevant billing information from the incumbent, and obtain prompt repair and maintenance for the elements and services it obtains from the incumbent.³

At a regularly scheduled Authority Conference held on February 21, 2001, the Authority took a series of steps to assure BellSouth’s compliance with the laws requiring it to provide nondiscriminatory access to its OSS. To accomplish these steps, the Authority convened two dockets and appointed Director H. Lynn Greer, Jr. to serve as the Pre-Hearing Officer in both proceedings.

The first docket, TRA Docket No. 01-00193,⁴ was opened to develop a common set of performance measurements, benchmarks and enforcement mechanisms for use in monitoring OSS functions. Concurrent with the establishment of this docket, the Authority adopted, as a base, the performance measurements, benchmarks and enforcement mechanisms ordered in TRA Docket No. 99-00430.⁵

The purpose of the instant docket, TRA Docket No. 01-00362, the second of those convened at the February 21, 2001 Authority Conference, is to determine whether existing

² *In the Matter of Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance*, FCC Docket No. 98-72, CC Docket No. 98-56; 13 FCC Rcd. 12,817 (released April 17, 1998) (Notice of Proposed Rulemaking), ¶9.

³ *Id.*

⁴ TRA Docket No. 01-00193 is styled *Docket to Establish Generic Performance Measurements, Benchmarks and Enforcement Mechanisms for BellSouth Telecommunications, Inc.*

⁵ See *Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*, TRA Docket No. 99-00430 (Final Order of Arbitration) (February 23, 2001), as modified, (Order on Reconsideration and Denying Joint Motion) (June 26, 2001).

data or test results derived from OSS testing in other states is reliable and applicable to Tennessee and, in those instances where reliance on such testing is inappropriate, to conduct necessary testing. In establishing this docket, the Directors unanimously voted to engage an independent, third party consultant to advise the Authority on the reliability of such data or test results and to conduct any required testing.

The Pre-Hearing Officer's First Report and Recommendation

On May 3, 2001, the Pre-Hearing Officer issued his First Report and Recommendation in TRA Docket No. 01-00362, proposing a procedure for determining whether BellSouth's Tennessee systems and processes operate sufficiently to provide wholesale services and elements to CLECs without impeding competition. The Pre-Hearing Officer primarily directed his recommendations to the function and format of the work to be undertaken by the third party consultant and the procedural framework for considering that work in conjunction with the parties' comments.

Specifically, the Pre-Hearing Officer recommended that the Authority direct the selected consultant to prepare and submit a Phase I report, within an established time frame, consisting of the following elements: (1) identification of the systems or processes used by BellSouth's Tennessee operations for providing services and network elements to competitors; (2) an audit of BellSouth's Tennessee performance data; and (3) recommendations regarding performance and system testing necessary for the Authority to ascertain whether BellSouth is providing network services and elements to CLECs in Tennessee without impeding competition. Under the Pre-Hearing Officer's proposal, the Phase I report would evaluate the testing of OSS in other BellSouth states and the extent to which the Authority can rely on such tests in evaluating BellSouth's Tennessee operations.

The report would also identify processes that are specific to Tennessee or that utilize Tennessee labor, such as the process for “hot cuts.”⁶

The Pre-Hearing Officer recommended that, upon completion of the consultant’s Phase I report, the Authority convene a hearing for the purpose of receiving testimony and other evidence from the consultant and interested parties. The Pre-Hearing Officer proposed that, after the conclusion of the hearing, the Authority render a decision on the consultant’s recommendation and the need to begin actual testing of the processes ordered by the Authority.

Party Comments

On May 8, 2001, the Authority issued a Notice of Consideration of Pre-Hearing Officer’s First Report and Recommendation and of Filing Comments which provided notice to all interested parties that the Authority would consider the Pre-Hearing Officer’s First Report and Recommendation at the May 15, 2001 Authority Conference. The Notice also provided that any interested party desiring to file comments on the First Report and Recommendation must do so by 2:00 p.m., May 11, 2001.

Three interested parties responded to the Pre-Hearing Officer’s First Report and Recommendation. On May 11, 2001, BellSouth filed a Response which requested the Authority to reconsider the Pre-Hearing Officer’s First Report and Recommendation. BellSouth proposed an alternative procedure for evaluating its OSS. Rather than retain an independent, third party consultant, BellSouth proposed that the Authority adopt a procedural schedule which would first permit BellSouth to present evidence in support of its claim of regionality, then allow for intervenors to submit rebuttal evidence, after which

⁶ A “hot cut” is the process of transferring a working subscriber’s line from one local service provider to another with minimum disruption of service.

the Authority would conduct a hearing on the issues of regionality and OSS.

On May 11, 2001, AT&T Communications of the South Central States, Inc. (“AT&T”) filed a letter expressing its support of the Pre-Hearing Officer’s First Report and Recommendation, observing that “the recommendation strikes an appropriate balance by eliminating any requirements for redundant testing by BellSouth, while ensuring that state-specific issues are adequately addressed.” AT&T requested that the Authority provide CLECs with access to the consultant’s work during Phase I of the process and permit them to comment or otherwise participate in that process.

The Southeastern Competitive Carriers Association, (“SECCA”) filed Comments on May 14, 2001 supporting the Pre-Hearing Officer’s First Report and Recommendation. SECCA asserted that this proceeding would result in a finding that BellSouth is not providing Tennessee CLECs with adequate access to its OSS.

The May 15, 2001 Authority Conference

At the May 15, 2001 Authority Conference, the Pre-Hearing Officer summarized the First Report and Recommendation and stated that the proposal contained therein would provide the most expeditious method for assuring that BellSouth’s Tennessee systems and processes operate sufficiently to provide wholesale services and elements to CLECs without impeding competition. The Pre-Hearing Officer reiterated that the proposal included consideration of testing in other states, such as Florida and Georgia. He then recommended that the Authority direct the selected independent, third party consultant to relate the testing in other states to the Tennessee systems and to evaluate the appropriateness, independence and accuracy of such testing.

In support of this recommendation, the Pre-Hearing Officer pointed to

inconsistencies he observed in BellSouth's Response to the Authority's December 6, 2000 Data Request filed on January 29, 2001. The Response stated that BellSouth's software infrastructure, including electronic interfaces and databases, are either the same or designed to operate in an indistinguishable manner in all states. The Response also revealed that some Legacy systems serve only a subset of the region, some serve only Tennessee and some OSS processes that serve Tennessee customers differ from those that serve Georgia and Florida. In addition, the Pre-Hearing Officer noted that studies had found that the testing in Georgia and Florida was not necessarily consistent.

The Pre-Hearing Officer then made a motion, contingent upon the Authority's approval of the First Report and Recommendation, that the Executive Secretary be authorized to select and retain a qualified consultant to prepare the Phase I report proposed in the First Report and Recommendation. The Pre-Hearing Officer stated that such selection would be subject to the Authority's approval.

Upon considering the record, the First Report and Recommendation and the comments of the Pre-Hearing Officer, the Directors voted unanimously to approve the First Report and Recommendation. In addition, the Directors voted unanimously to authorize the Executive Secretary to proceed expeditiously to select and retain a qualified consultant, subject to approval by the Authority.

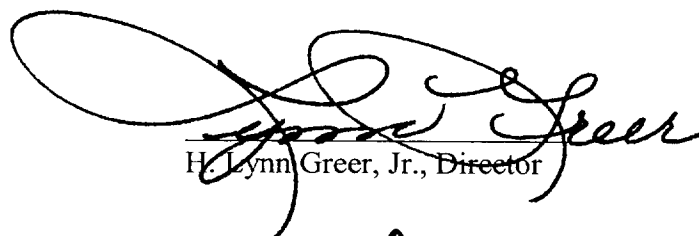
IT IS THEREFORE ORDERED THAT:

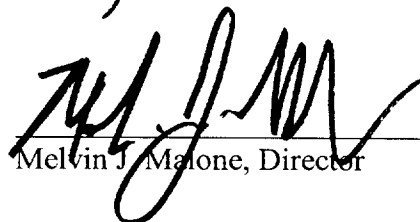
1. The First Report and Recommendation of the Pre-Hearing Officer, attached to this Order as **Exhibit A** is approved and is incorporated into this Order as if fully rewritten herein.
2. The Executive Secretary is authorized to select and retain a qualified

consultant to prepare the Phase I report proposed in the First Report and Recommendation, subject to approval of the Authority.

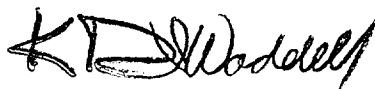
3. Any party aggrieved by this Order may file a Petition for Reconsideration with the Tennessee Regulatory Authority pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of this Order.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

MAY 3, 2001

IN RE:

**DOCKET TO DETERMINE THE
COMPLIANCE OF BELL SOUTH
TELECOMMUNICATIONS, INC.'S
OPERATIONS SUPPORT SYSTEMS
WITH STATE AND FEDERAL
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DOCKET NO.
01-00362

FIRST REPORT AND RECOMMENDATION OF PRE-HEARING OFFICER

Background

Incumbent Local Exchange Companies (ILECs) such as BellSouth use a variety of systems, databases, and personnel (collectively referred to as Operations Support Systems [OSS]) to provide service to their customers.¹ At the regularly scheduled Authority Conference on February 21, 2001, the Directors voted to accomplish a series of steps in order to ensure that BellSouth provides nondiscriminatory access to its OSS. These steps would be

¹See *Application by Bell Atlantic New York for Authorization under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99-295, 15 FCC Rcd. 3953, 3989-90, ¶ 83 (Released December 22, 1999) (Memorandum Opinion and Order) (“*Bell Atlantic New York Order*”).

EXHIBIT

A

accomplished in two dockets. The first docket would establish a generic set of performance measures, benchmarks and enforcement mechanisms for BellSouth's wholesale operations. The Authority ruled on February 21, 2001 that the benchmarks, performance measurements and enforcement mechanisms adopted by the Authority in the BellSouth/DeltaCom arbitration (Docket No. 99-00430) shall serve as the starting point for this generic proceeding. Pursuant to an established procedural schedule, the parties will submit proposed changes to these standards with supporting evidence.

This docket, the second of the two established on February 21, 2001, refers to BellSouth's OSS and the ability of such systems and processes to offer wholesale services and elements in compliance with state and federal regulations.

The Federal Communications Commission (FCC) defined OSS as "consisting of pre-ordering, ordering, provisioning, maintenance and repair, and billing functions supported by an [ILEC's] databases and information. OSS includes the manual, computerized, and automated systems, together with associated business processes and the up-to-date data maintained in these systems." The FCC further propounded that OSS includes access to loop qualification information.² Consistent with this definition, the FCC found that "...access to OSS functions falls squarely within an incumbent LEC's duty

² See *Third Report and Order in the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, 15 FCC Rcd. 3696, ¶ 424,425 (Released Nov. 5, 1999) (Third Report and Order and Fourth Further Notice of Proposed Rulemaking) ("UNE Remand Order").

under section 251(c)(3) to provide unbundled network elements under terms and conditions that are nondiscriminatory and just and reasonable, and its duty under section 251(c)(4) to offer resale services without imposing any limitations or conditions that are discriminatory or unreasonable.”³

The Tennessee General Assembly has declared that it is the policy of Tennessee to permit competition in all telecommunications markets,⁴ and that BellSouth must provide non-discriminatory access to its public network.⁵

On May 12, 1999, AT&T Communications of the South Central States (“AT&T”) filed a petition (Docket No. 99-00347) asking the Authority to order third party testing of BellSouth’s OSS. At the regularly scheduled Authority conference on October 26, 1999, the Directors voted to hold the petition in abeyance in order to monitor the third party testing in other states and to determine at a later date if Tennessee-specific testing would be required.

On April 24, 2000, the Authority issued a Data Request to all parties in Docket No. 99-00347, requesting the respondents to (1) identify and explain all areas where BellSouth’s interfaces, systems and processes utilized in Tennessee differ from those used in other states within BellSouth’s region and (2) identify what impact, if any, the Tennessee-specific differences identified in (1) would have on third party testing of BellSouth’s OSS. BellSouth responded that its interfaces, systems and processes in Tennessee are the same as those used

³ *Bell Atlantic New York Order*, ¶ 83.

⁴ T.C.A. §65-4-123.

⁵ T.C.A. §65-4-124.

throughout BellSouth's region. AT&T responded that Tennessee-specific differences would require Tennessee-specific testing. MCI suggested that an objective third party should evaluate Tennessee-specific differences. Using this information, a third party should then test BellSouth's OSS to the extent that it is different from that OSS used in Florida, where the most extensive OSS testing is being done.

On December 6, 2000, the Authority issued a second Data Request to BellSouth requesting more detailed information in order to assist in determining the need for Tennessee-specific testing of its OSS. BellSouth's response on January 29, 2001 contended that its software infrastructure, including electronic interfaces and databases, is either the same or is designed to operate in an indistinguishable manner across all of its states. Nevertheless, its response revealed that some legacy systems serve only a subset of the region, and some serve only Tennessee. Some OSS processes that serve Tennessee customers are different from those that serve Georgia and Florida customers.

Recommendation

The purpose of this report is to recommend a procedure for determining if BellSouth's Tennessee systems and processes are operating sufficiently to provide wholesale services and elements to CLECs without impeding competition. It is my recommendation, as the Hearing Officer in this docket, that the Authority engage an independent third party consultant to determine

what, if any, testing of BellSouth's OSS is needed (Phase I) and conduct such testing if ordered by the Authority (Phase II).

Specifically, the selected consultant should prepare and submit to the Authority a Phase I report consisting of the following elements within an established time frame: (1) identification of the systems or processes used by BellSouth's Tennessee operations for providing services and network elements to competitors; (2) an audit of BellSouth's Tennessee performance data; and (3) recommendations regarding performance and system testing necessary for the Authority to ascertain whether BellSouth is providing network services and elements to CLECs in Tennessee without impeding competition. Consistent with previous decisions by the Authority, such decisions shall take into consideration the testing of OSS in other BellSouth states and the extent that the TRA can rely on such tests for Tennessee operations. The Phase I report should also identify processes that are specific to Tennessee or utilize Tennessee labor such as the process for "hot cuts."⁶

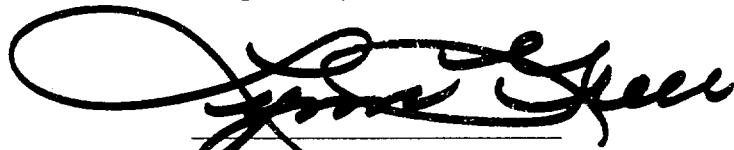
Upon completion of the consultant's Phase I report, it is my recommendation that the Authority convene a hearing for the purpose of receiving testimony and documenting evidence from the consultant and interested parties. Upon completion of the hearing, the Authority may render a

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decision on the consultant's recommendation and the need to begin actual testing of the processes ordered by the Authority.

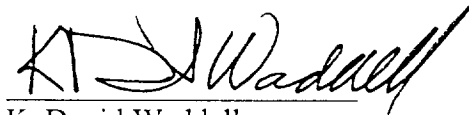
The Pre-Hearing Officer is of the opinion that since such OSS review and analysis is necessary to demonstrate BellSouth's compliance with the network opening provisions of the Federal Telecommunications Act of 1996 and to demonstrate compliance with the criterion necessary to enter the InterLATA long distance market, the cost of the consultant's report and testing, if necessary, shall be borne by BellSouth.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read "H. Lynn Greer, Jr.".

Director H. Lynn Greer, Jr.,
Pre-Hearing Officer

Attest:

A handwritten signature in black ink, appearing to read "K. David Waddell".

K. David Waddell,
Executive Secretary